

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PUBLIC EMPLOYEES' RETIREMENT
ASSOCIATION OF COLORADO, TENNESSEE
CONSOLIDATED RETIREMENT SYSTEM,
SJUNDE AP-FONDEN, FJÄRDE AP-FONDEN, and
PENSIONS KASSERNES ADMINISTRATION A/S,
Individually and On Behalf of All Others Similarly
Situating,

Plaintiffs,

v.

CITIGROUP INC., CHARLES O. PRINCE, SALLIE L.
KRAWCHECK, GARY L. CRITTENDEN, TODD S.
THOMSON, ROBERT DRUSKIN, THOMAS G.
MAHERAS, MICHAEL STUART KLEIN, DAVID C.
BUSHNELL, JOHN C. GERSPACH, STEPHEN R.
VOLK, GEORGE DAVID and KPMG LLP,

Defendants.

Electronically Filed

No. 1:08-cv-0135 (SHS)

ECF CASE

TILLIE SALTZMAN, Individually and On Behalf of
All Others Similarly Situated,

Plaintiff,

v.

CITIGROUP INC., CHARLES O. PRINCE, ROBERT
E. RUBIN, STEPHEN R. VOLK, SALLIE L.
KRAWCHECK, GARY L. CRITTENDEN and
ROBERT DRUSKIN,

Defendants.

Electronically Filed

No. 1:07-cv-9901(SHS)

ECF CASE

LENNARD HAMMERSCHLAG, Individually, and On
Behalf of All Others Similarly Situated,

Plaintiff

v.

CITIGROUP INC., CHARLES PRINCE, SALLIE
KRAWCHECK, and GARY CRITTENDEN,

Defendants.

Electronically Filed

No. 1:07-cv-10258(SHS)

ECF CASE

JUDY G. FISHER,

Plaintiff,

-against-

CITIGROUP INC., ET AL.,

Defendants.

No. 08-cv-0136 (SHS)

**THE GLOBAL PENSION FUNDS' NOTICE OF MOTION AND MOTION TO STRIKE
THE JANUARY 28, 2008 DECLARATION
OF MARC DANN AND WILLIAM J. NEVILLE**

I. INTRODUCTION

Plaintiffs, Public Employees' Retirement Association of Colorado ("Colorado PERA"), Tennessee Consolidated Retirement System ("TCRS"), Sjunde AP-fonden ("AP7"), Fjärde AP-fonden ("AP4"), and Pensionskassernes Administration A/S ("PKA") (collectively, the "Global Pension Funds"), object to and move to strike in its entirety, the January 28, 2008 Declaration of Marc Dann ("Dann") and William J. Neville ("Neville"), submitted in support of the U.S. Public Fund Group's Motion For Appointment of Lead Plaintiff, and attached as Exhibit B to the January 28, 2008 Supplemental Declaration of Gerald H. Silk. The Declaration of Dann and Neville is inadmissible because the Declaration is unsworn and not executed as "true under penalty of perjury," as required by 28 U.S.C. § 1746 (2007). The Global Pension Funds respectfully request that the Court strike the Dann and Neville Declaration in its entirety.

II. THE COURT SHOULD STRIKE THE DECLARATION OF DANN AND NEVILLE

When any party submits an unsworn declaration in support of any motion, the unsworn declaration has to be executed as "true under penalty of perjury." 28 U.S.C. § 1746 (2007); *see also LeBoeuf, Lamb, Greene & MacRae, L.L.P. v. Worsham*, 185 F.3d 61, 65 (2d Cir. 1999)

(detailing the requirements of 28 U.S.C. § 1746); *Sterling Fifth Assocs. v. Carpentile Corp.*, No. 03 Civ. 6568 (HB), 2003 U.S. Dist. LEXIS 16922, at *16 (S.D.N.Y. Sept. 25, 2003) (unsworn declaration inadmissible because it did not comply with the requirements of 28 U.S.C. § 1746). Although satisfying the requirements of 28 U.S.C. § 1746 is simple enough, Dann's and Neville's unsworn Declaration is not executed as "true under penalty of perjury." This is the second Declaration of Dann and Neville that fails to comply with the requirements of 28 U.S.C. § 1746. For good cause shown, the Court should strike Dann's and Neville's Declaration in its entirety.

III. CONCLUSION

For all of the foregoing reasons, the Global Pensions Funds respectfully request that the January 28, 2008 Declaration of Dann and Neville be stricken in its entirety.

Dated: February 5, 2008

Respectfully,

ENTWISTLE & CAPPUCCI LLP

/s/

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